

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<b>CLINIQUE LA PRAIRIE, S.A.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>-against-</b>	)	<b>Case No. 1:07-cv-04038-PAC</b>
	)	
<b>THE RITZ CARLTON HOTEL COMPANY, L.L.C.,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT**

Defendant The Ritz-Carlton Hotel Company, L.L.C. ("Ritz-Carlton"), by and through counsel, hereby responds to the Complaint filed by Plaintiff Clinique La Prairie, S.A. ("CLP"), and in response to the specific numbered paragraphs of the Complaint, admits, denies and alleges as follows:

1. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of paragraph 1, and therefore denies them. Ritz-Carlton denies the allegations of the second sentence of paragraph 1. Ritz-Carlton is without knowledge or information sufficient to form a belief as to whether CLP has a service mark that is registered in Switzerland and denies the remainder of the allegations of paragraph 1.

2. Ritz-Carlton admits the allegations of the first sentence of paragraph 2 and states that it is a limited liability company rather than a corporation. Ritz-Carlton admits that it

operates The Ritz-Carlton Central Park hotel located at 50 Central Park South, New York, New York, 10019. Ritz-Carlton denies the remaining allegations of paragraph 2.

3. Ritz-Carlton admits that it operates The Ritz-Carlton Central Park hotel located at 50 Central Park South, New York, New York and denies the remaining allegations of the first sentence of paragraph 3. Ritz-Carlton admits that it engages in business in the State of New York and states that the remaining allegations of the second sentence of paragraph 3 are legal conclusions to which no response is required. Ritz-Carlton denies that it has committed any tortious acts in the State of New York or elsewhere.

4. Ritz-Carlton denies that any cause of action has arisen and states that the allegations contained in paragraph 4 are legal conclusions to which no response is required.

5. Upon information and belief, Ritz-Carlton admits the allegations of paragraph 5.

6. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 and therefore denies them.

7. Ritz-Carlton denies that CLP has become world renowned for, among other things, cellular therapy, a medical clinic and a health spa, and is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 and therefore denies them.

8. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 and therefore denies them.

9. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 and therefore denies them.

10. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10 and therefore denies them.

11. Ritz-Carlton denies the allegations of paragraph 11.

12. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 and therefore denies them.

13. Ritz-Carlton denies the allegations of the first sentence of paragraph 13 and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 13 and therefore denies them.

14. Ritz-Carlton denies the allegations of the first and second sentences of paragraph 14. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 14 and therefore denies them.

15. Ritz-Carlton denies that CLP is well known in the United States and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 15 and therefore denies them.

16. Ritz-Carlton denies the allegations of paragraph 16.

17. Ritz-Carlton denies the allegations of paragraph 17.

18. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 and therefore denies them.

19. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19, and therefore denies them, and also denies that CLP has any rights that adversely impact the rights of Ritz-Carlton to the name and mark LA PRAIRIE.

20. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20 and therefore denies them.

21. Ritz-Carlton admits that it did not bargain for, pay for or acquire CLP. Ritz-Carlton denies the remaining allegations of paragraph 21.

22. Ritz-Carlton denies the allegations of paragraph 22.

23. Ritz-Carlton denies the allegations of paragraph 23 except to admit that it operates a spa known as La Prairie at the Ritz-Carlton Spa at The Ritz-Carlton Central Park located at 50 Central Park South, New York, New York.

24. Ritz-Carlton admits that it is a licensee entitled to use the name La Prairie at the Ritz-Carlton Spa and denies the remaining allegations of paragraph 24.

25. Ritz-Carlton denies the allegations of paragraph 25.

26. Ritz-Carlton denies the allegations of paragraph 26 and refers to the document in question for its accurate content and context.

27. Ritz-Carlton denies the allegations of paragraph 27.

28. Ritz-Carlton denies the allegations of paragraph 28 and refers to its internet site for its accurate content and context.

29. Ritz-Carlton denies the allegations of paragraph 29.

**Subheading between paragraphs 29 and 30.** Ritz-Carlton denies the allegations made in the subheading.

30. Ritz-Carlton denies the allegations of paragraph 30 and refers to its brochures and internet website for their accurate content and context.

31. Ritz-Carlton denies the allegations of paragraph 31.

32. Ritz-Carlton denies the allegations of paragraph 32.

33. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33 and therefore denies them.

34. Ritz-Carlton is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 34 and therefore denies them.

35. Ritz-Carlton denies the allegations of paragraph 35.

36. Ritz-Carlton denies the allegations of paragraph 36.

37. Ritz-Carlton denies the allegations of paragraph 37.

38. Ritz-Carlton denies the allegations of paragraph 38.

39. Ritz-Carlton denies the allegations of paragraph 39 with regard to confusion and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 39 and therefore denies them.

40. Ritz-Carlton denies that there is any danger to CLP's name, reputation or goodwill and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 40 and therefore denies them.

41. Ritz-Carlton denies the allegations of paragraph 41.

42. Ritz-Carlton denies the allegations of paragraph 42.

43. Ritz-Carlton denies the allegations of paragraph 43.

**ANSWER TO ALLEGATIONS REGARDING COUNT I**

44. In response to paragraph 44 of the Complaint, Ritz-Carlton repeats, re-alleges and reiterates each and every response as set forth above in paragraphs 1 through 43 with the same force and effect as if fully set forth herein.

45. Ritz-Carlton denies the allegations of paragraph 45 and refers to La Prairie's web site for the accurate content and context of the quoted statement.

46. Ritz-Carlton denies the allegations of paragraph 46.

47. Ritz-Carlton denies the allegations of paragraph 47.

48. Ritz-Carlton denies the allegations of paragraph 48.

49. Ritz-Carlton denies the allegations of paragraph 49.

50. Ritz-Carlton denies the allegations of paragraph 50.

51. Ritz-Carlton denies the allegations of the first sentence of paragraph 51. Ritz-Carlton admits that massages and skin care treatments are among the services available at La Prairie at the Ritz-Carlton Spa. Ritz-Carlton is without knowledge or information sufficient to form a belief as to products, services and practices of CLP and therefore denies the allegations pertaining to those subjects. Ritz-Carlton denies all other allegations of paragraph 51.

52. Ritz-Carlton denies the allegations of paragraph 52.

53. Ritz-Carlton denies the allegations of paragraph 53.

54. Ritz-Carlton denies the allegations of paragraph 54.

55. Ritz-Carlton denies the allegations of paragraph 55.

56. Ritz-Carlton denies the allegations of paragraph 56.

57. Ritz-Carlton denies the allegations of paragraph 57.

**ANSWER TO ALLEGATIONS REGARDING COUNT II**

58. In response to paragraph 58 of the Complaint, Ritz-Carlton repeats, re-alleges and reiterates each and every response as set forth above in paragraphs 1 to 43, 45-48 and 50-51 with the same force and effect as if fully set forth herein.

59. Ritz-Carlton denies the allegations of paragraph 59.

60. Ritz-Carlton denies the allegations of paragraph 60.

61. Ritz-Carlton denies the allegations of paragraph 61.

62. Ritz-Carlton denies the allegations of paragraph 62.

63. Ritz-Carlton denies the allegations of paragraph 63.

64. Ritz-Carlton denies the allegations of paragraph 64.

65. Ritz-Carlton denies the allegations of paragraph 65.

**ANSWER TO ALLEGATIONS REGARDING COUNT III**

66. In response to paragraph 66 of the Complaint, Ritz-Carlton repeats, re-alleges and reiterates each and every response as set forth above in paragraphs 1 to 43, 45-48, 50-51, 59-60 and 62 with the same force and effect as if fully set forth herein.

67. Ritz-Carlton denies the allegations of paragraph 67.

68. Ritz-Carlton denies the allegations of paragraph 68.

69. Ritz-Carlton denies the allegations of paragraph 69.

70. Ritz-Carlton denies the allegations of paragraph 70.

To the extent not otherwise addressed in the preceding paragraphs, any remaining allegations are hereby denied.

**FIRST AFFIRMATIVE DEFENSE**

The Complaint, and each cause of action contained therein, fails to state facts sufficient to constitute a cause of action.

**SECOND AFFIRMATIVE DEFENSE**

The Complaint, and each cause of action contained therein, is barred, in whole or in part, by the doctrine of laches.

**THIRD AFFIRMATIVE DEFENSE**

The Complaint, and each cause of action contained therein, is barred, in whole or in part, by the doctrine of estoppel.

**FOURTH AFFIRMATIVE DEFENSE**

The Complaint, and each cause of action contained therein, is barred, in whole or in part, by the doctrine of acquiescence.

**FIFTH AFFIRMATIVE DEFENSE**

The Complaint, and each cause of action contained therein, is barred, in whole or in part, by the doctrine of waiver.

**SIXTH AFFIRMATIVE DEFENSE**

The Complaint, and each cause of action contained therein, is barred by the doctrine of unclean hands in that CLP has engaged in inequitable conduct directly related to the subject matter of this litigation.



**SEVENTH AFFIRMATIVE DEFENSE**

The Complaint, and each cause of action contained therein, is barred by the fact that Ritz-Carlton's use of the mark LA PRAIRIE is pursuant to its license of incontestable Federal Trademark Registration No. 1,665,540, which is conclusive evidence of Ritz-Carlton's rights to use the mark in commerce.

**EIGHTH AFFIRMATIVE DEFENSE**

The First Cause of Action is barred under 15 U.S.C. §1125(c)(6), since Ritz-Carlton's rights under Federal Trademark Registration No. 1,665,540 serves as a complete bar to CLP's causes of action for dilution under state law.

**NINTH AFFIRMATIVE DEFENSE**

The Complaint, and each cause of action contained therein, is barred by the fact that CLP lacks standing to assert any cause of action contained in the Complaint.

**TENTH AFFIRMATIVE DEFENSE**

Injunctive relief is inappropriate because CLP is not likely to succeed on the merits of its claim and will not suffer irreparable injury without an injunction. Injunctive relief is also inappropriate because there is an adequate remedy at law and because Ritz-Carlton will be substantially harmed if an injunction were granted, whereas CLP will not be harmed if an injunction is not granted.

**ELEVENTH AFFIRMATIVE DEFENSE**

Ritz-Carlton reserves the right to amend its Answer and to assert additional defenses and/or supplement, alter or change their answer and defenses upon the discovery of more definitive facts and upon the completion of a continuing investigation and discovery.

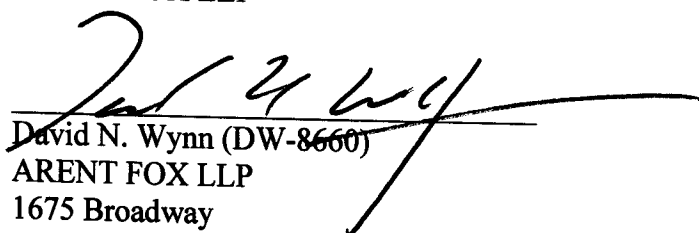
**WHEREFORE**, given the aforementioned response to CLP's Complaint, Ritz-Carlton respectfully requests that this Court grant it the following relief:

- A. That the Complaint be dismissed with prejudice and judgment granted in Ritz-Carlton's favor;
- B. That the Court award Ritz-Carlton its costs and attorneys' fees incurred in connection with this litigation; and
- C. That the Court award Ritz-Carlton such other and further relief as the Court deems just and proper.

Dated: June 4, 2007

Respectfully submitted,

ARENT FOX LLP



David N. Wynn (DW-8660)  
ARENT FOX LLP  
1675 Broadway  
New York, New York 10019  
Telephone No.: (212) 484-3900  
Facsimile No.: (212) 484-3990  
Email: [wynn.david@arentfox.com](mailto:wynn.david@arentfox.com)

**Attorneys for Ritz-Carlton**

OF COUNSEL:

Barbara S. Wahl  
Leo M. Loughlin  
ARENT FOX LLP  
1050 Connecticut Avenue, NW  
Washington, DC 20036  
Telephone No.: (202) 857-6415  
Facsimile No.: (202) 857-6395  
Email: [wahl.barbara@arentfox.com](mailto:wahl.barbara@arentfox.com)